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May 9, 2023

VIA ECF

Honorable Sarah L. Cave
United States Magistrate Judge
United States District Court for
The Southern District of New York
500 Pearl Street, Room 1670
New York, New York 10007-1312

Defendant Ambac Assurance Corporation's ("Ambac") request at ECF No. 690 is GRANTED. Ambac is permitted to disclose certain documents designated as Protected Material to Kathleen Ferguson, Zachary Bannon, and additional counsel assisting in Mr. Bannon's representation of the Air Force in this matter as may be necessary to question Ms. Ferguson in writing pursuant to the Court's Order at ECF No. 667, provided that any such recipient of Protected Material executes the Acknowledgment and Agreement to Be Bound as set forth in the Protective Order at ECF No. 135.

The Clerk of Court is respectfully directed to close ECF No. 690.

SO ORDERED. 05.10.2023


SARAH L. CAVE
United States Magistrate Judge

Re: Monterey Bay Military Housing LLC, et al. v. Ambac Assurance Corporation, et al.,
No. 19-cv-09193 (PGG) (SLC)

Dear Judge Cave:

We write on behalf of Defendant Ambac Assurance Corporation ("Ambac") to request an order permitting disclosure of "Protected Materials," as defined by the Protective Order in this case, to Ms. Kathleen Ferguson and additional counsel for the Air Force. *See* Protective Order § 2.14, ECF No. 135.

The Court's April 21, 2023 Order directed Ambac to "serve on the Air Force a list of no more than 35 questions addressed to Ms. Ferguson . . . , along with any documents Ambac believes will refresh Ms. Ferguson's recollection." Order ¶ 1, ECF No. 667. Pursuant to that Order, on May 5, 2023, Ambac sent to Air Force counsel Assistant U.S. Attorney Zachary Bannon the allotted questions along with certain documents, some of which had been designated by various producing parties as Protected Material under the Protective Order.¹ While the Protective Order provides for disclosure under certain circumstances to witnesses "during their depositions," Ms. Ferguson does not clearly qualify because she is not yet sitting for a deposition. *See* Protective Order §§ 7.2(g), 7.3(e), ECF No. 135. The Protective Order's restrictions on disclosure apply "[u]nless otherwise ordered by the Court." *Id.* §§ 7.2, 7.3.

Accordingly, out of an abundance of caution, Ambac respectfully requests a Court order pursuant to Sections 7.2 and 7.3 of the Protective Order permitting Ambac to disclose to Ms.

¹ Prior to sending the questions and documents to the Air Force, Ambac obtained an Acknowledgment and Agreement to Be Bound by the Protective Order from Mr. Bannon. Mr. Bannon has inquired about also sharing the documents with other Air Force counsel who have been assisting in his representation of the Air Force in this matter.

Ferguson and additional counsel for the Air Force documents designated as Protected Material, provided that each such recipient executes the Protective Order's Acknowledgment and Agreement to Be Bound. *See* Order ¶ 1, ECF No. 667; Protective Order, Attachment 2, ECF No. 135.

Respectfully Submitted,

/s/ Jeremy Baldoni

Jeremy Baldoni

Quinn Emanuel Urquhart & Sullivan, LLP

CC: Zachary Bannon, counsel for the Air Force (via email)